

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

BEBE STUDIO, INC.  
CHANEL, INC.  
COACH SERVICES, INC.  
GUCCI AMERICA, INC.  
and PRL USA HOLDINGS, INC.

Plaintiffs

vs

CIVIL 08-1478CCC

GRAND STORES, CENTRO IMPORT  
BLING BLING, RO-MAR DRESSES, INC.  
BEBA'S HALLMARK SHOP, PUERTO  
RICO DRUGS, RECODO CARIBBEAN  
GIFTS, MARIA JUDITH FRANCO-KIOSKO  
SOW KIOSKO, SAN JUAN SOUVENIRS  
SHANTY, TIENDA ORLIS, OKLIS STORE  
TIENDA LA PRINCIPAL, TROPICAL  
FASHION, RELOJERIA EL OTRO AMIGO  
M & C FANTASIA, OUTLET DE CESAR  
ESPAÑOL, FANTASIA Y ALGO MAS  
LOLA'S, FOUR SEASONS,  
NICOLE ACCESSORIES  
SEASONS NOVELTY OUTLET  
MUNDO DE LAS FANTASIAS  
ENVOLTURA Y ALGO MAS, ANA'S  
EXECUTIVE, CASA FUENTES  
FARMACIA NUEVA ALIDAS, TIENDA  
EVA, M & R JEWELRY, TIMING  
JEWELRY, TIENDA SARAH Y CUTE  
MEYNAI'S FANTASY, FANTASIA Y ALGO  
MAS, AROMAS, MANAR JEAN'S, MR.  
SNACK'S PARTY & GIFTS, CIAO,  
VIVIAN'S ACCESSORIES, SWATTEE,  
KHRISTIBEL, CHULERIAS, TANYNALY,  
KHALA ZAPATOS Y CARTERAS, ARLIN  
SASTRERIA, JOYERIA SILO, TIENDA  
AGNES, EGUI'S BAZAR, TIENDA GISEILY  
FASHION, FUN SUNGLASSES, JUNING,  
FLORISTERIA CREATIVA, LA CASA DE  
LSO PERFUMES, JAKZIEL IMPORTS, K-  
LIBRE, EVERYBODY'S FASHION, MIKE  
EXCLUSIVE WEAR, and LANERY'S  
OUTLET STORE

Defendants

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### OPINION AND ORDER

Before the Court are plaintiffs' two Motions for Summary Judgment on the Issue of Liability against defendants Envoltura y Algo Mas; Fantasia y Algo Mas; Farmacia Nueva a/k/a Farmacia Nueva Alidas; M&C Fantasia; Tienda La Principal and Sow Kiosko (**docket entry 154**)<sup>1</sup> and defendant Arlin Sastreria (**docket entry 122**) (to be referred to as the "SJ defendants"). Both motions are unopposed.

Th plaintiffs are well known apparel companies, each of which owns or more trademarks. They have pleaded causes against the SJ defendants from trademark infringement and false designation of origin under the Lanham Act, 15 U.S.C. §1051 et seq. Plaintiffs allege that these defendants have unlawfully engaged in the manufacture, duplication, distribution, sale, or offer for sale of counterfeit merchandise bearing exact copies or colorable duplications of their trademarks. As a result of these alleged activities, plaintiffs filed this action on April 24, 2008. All defendants in this case, except for the SJ defendants, have entered into settlement agreements with the plaintiffs or have been the subject of a default judgment.

The plaintiffs attached copies of their trademark registrations to the complaint. Under federal law, a registered trademark is prima facie evidence of the registrant's exclusive right to use the mark in commerce in connection with the goods or services specified in the certificate of registration. Pic Design Corp. v. Bearings Specialty Co., 436 F.2d 804, 807 (1<sup>st</sup> Cir. 1971). Plaintiffs have also provided declarations which state that counterfeit merchandise was purchased from the corresponding SJ defendants and that none of them has been authorized to manufacture, sell, distribute, or offer for sale merchandise bearing the plaintiffs' trademarks.

We ordinarily state the facts in a summary judgment context in the light most favorable

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<sup>1</sup>Originally filed on February 23, 2009 (docket entry 117), the motion was amended and resubmitted on July 6, 2009 (docket entry 154).

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to the nonmoving party. See, Cordero-Soto v. Island Finance, Inc., 418 F.3d. 114, 119 (1<sup>st</sup> Cir. 2005). There are, however, no oppositions to the motions now before us. Local Civil Rule 56(e) requires that in the absence of a opposing statement of contested facts, supported by citations to supporting evidence, the movants' Statement of Uncontested Facts must be taken as true. Fontanez Nunez v. Janssen Ortho LLC, 447 F.3d. 50, 52 (1<sup>st</sup> Cir. 2006). Having considered the Statement of Uncontested Facts and the corresponding supporting evidence contained in the aggregate exhibits A and B evidence of docket entries 119 and 123, as to each defendant, the Court makes the following findings with regard to the SJ defendants' liability:

Defendant **Envoltura y Algo Mas** is liable for the violation of plaintiff **Coach's** trademarks pursuant to 15 U.S.C. §1114(a).

Defendant **Fantasia y Algo Mas** is liable for the violation of plaintiff **Gucci's** trademarks pursuant to 15 U.S.C. §1114(a).

Defendant **Farmacia Neuva a/k/a Farmacia Nueva Alidas** is liable for the violation of plaintiff **Gucci's** trademarks pursuant to 15 U.S.C. §1114(a).

Defendant **M&C Fantasia** is liable for the violation of plaintiff **Chanel's** trademarks pursuant to 15 U.S.C. §1114(a).

Defendant **Tienda La Principal** is liable for the violation of plaintiff **Coach's** trademarks pursuant to 15 U.S.C. §1114(a).

Defendant **Sow Kiosko** is liable for the violation of plaintiff **Chanel's** trademarks pursuant to 15 U.S.C. §1114(a).

Defendant **Arlin Sasteria** is liable for the violation of plaintiff **PLA USA Holdings, Inc.'s Polo/Ralph Lauren** trademarks pursuant to 15 U.S.C. §1114(a).

The issue of damages is referred to the Magistrate-Judge for a hearing and report and

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recommendation.

SO ORDERED.

At San Juan, Puerto Rico, on July 17, 2009.

S/CARMEN CONSUELO CEREZO  
United States District Judge